

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>No. 05-06002-01-CR-W-GAF</b>
<b>v.</b>	)	
	)	
<b>LISA MONTGOMERY,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT’S MOTION FOR CONTINUANCE OF TRIAL SETTING**

**COMES NOW** Defendant, by and through appointed counsel, and hereby requests this Honorable Court enter its Order continuing the trial setting of this case from the current setting until April 24, 2006.

**SUGGESTIONS IN SUPPORT OF MOTION**

1. This case is currently scheduled for trial on March trial docket.
2. Both the defendant and the government have agreed on a trial setting of April 24, 2006.
3. The government has announced its intention of seeking the death penalty in this case. However, the authorization process within the Department of Justice will take several months. As a result, the government will not be able to file its Notice of Intention to Seek the Death Penalty until September 2005.

4. As a result, additional time is necessary in order to determine if the government will in fact seek the death penalty in this case. If a Notice of Intent is filed by the government, the defense needs substantial time to prepare this case for trial and to prepare for the penalty phase.

5. Obtaining time to properly prepare for representing a person facing death is essential. The necessary investigation, motion advocacy and preparation cannot be accomplished without substantial time. Defense counsel face difficult and time-consuming tasks in capital cases. Moreover, a capital trial is different from all other cases, not just by degree, but by kind. In *Ungar v. Sarafite*, 378 U.S. 575 (1964), the Supreme Court explained that "a myopic insistence upon expeditiousness in the face of justifiable request for delay can render the right to defense with counsel an empty formality . . . ." *Id.* at 849-50.

6. In accordance with *Title 18, United States Code*, defendant submits the above stated reasons for this continuance request outweigh the interests of the public and the defendant to a speedy trial under *Title 18, United States Code §3161(c)(1)*.

WHEREFORE, for the above stated reasons defendant respectfully requests this Honorable Court grant her request for continuance and continue the trial of this case until April 24, 2006.

Respectfully submitted:

/s/

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/s/

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was electronically filed in the Court's ECF filing system, on February 25, 2005, and electronically served on all parties.

/s/

Susan M. Hunt